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**DeWitt Historical
Society of
Tompkins County.**

**RULLOFF:
The Great Criminal
and Philologist.**

Second Edition.

DE WITT
HISTORICAL SOCIETY
—OF—
TOMPKINS COUNTY

PUBLICATIONS

No. 1

- I. SKETCH OF THE WORK: By the President, William Elliot Griffis, D.D., L.H.D.
- II. RULLOFF: THE GREAT CRIMINAL AND PHILOLOGIST: By Hon. Samuel D. Halliday, Member of the Bar of Tompkins County, Trustee of Cornell University, Etc.

SECOND EDITION

ITHACA DEMOCRAT PRESS
ITHACA, N. Y.
1906

Prof O. D. Von Englen to
A. H. Wright
Nov 1, 1961

A SKETCH OF THE WORK OF THE
DE WITT HISTORICAL SOCIETY
OF TOMPKINS COUNTY

In June, 1863, a few citizens of Ithaca met at the office of Messrs. Boardman & Finch, in pursuance of request originating with Hon. Ezra Cornell, for the purpose of discussing the propriety of organizing a historical society. After the making in due course of a constitution and the election of officers, and the appointment of committees, four meetings were held, corresponding members elected, and some documents presented. A request was made that Richard Varick DeWitt, Esq., of Albany, should give to the society a paper or lecture on the Life and Times of (his Father) Simeon DeWitt, and that W. L. Bogart, Esq., of Aurora, should discourse on the History of Cayuga Lake. So far as known, nothing was done in the fulfillment of these requests, and the last meeting of the Ithaca Historical and Scientific Society seems to have been held on January 19th, 1864.

The DeWitt Historical Society of Tompkins County, formed October 24th, 1899, began its work by issuing a printed constitution and by-laws, issuing a call to the people of the county for historical material, the appointment of committees, the naming of a genealogical section and the holding of regular meetings. Through the courtesy of Mr. Horace Mack the secretary's books of records of The Ithaca Historical Society of Tompkins County now serves the same general

purpose, for which it was originally intended, in the hands of the secretary of the new organization.

Both regular and special meetings have been held stately during four of the past five years, at which the following papers were read and business transacted :

I. The importance of the Study of Local History. Prof. H. Morse Stephens. Meeting held in the Ithaca High School.

II. The Early Formative Influences of Central New York. William Elliot Griffis. House of Dr. and Mrs. E. H. Kyle.

III. Ithaca of Fifty Years Ago, as Seen by a Boy. Dean T. F. Crane. Residence of Hon. and Mrs. S. D. Halliday.

IV. Ruloff, the Great Criminal and Philologist. Hon. S. D. Halliday. Ithaca High School.

V. Annual Meeting. Election of officers and vote to erect tablet commemorating Sullivan's Expedition of 1779. President's address. House of Mr. and Mrs. Gillette.

VI. Changes in the Natural History of a Newly Opened Country. Prof. Liberty Hyde Bailey. Illustrated by the stereopticon, in charge of Mr. Seth Sheldon. Ithaca High School.

VII. Notes, Historical and Otherwise, of the Birds of Tompkins County. Louis Agassiz Fuertes. Illustrated with drawings by the author. Residence of Mrs. Fanny E. Bostwick.

VIII. The Battle of Newtown, August 29th, 1779. Dr. Walter H. Ottman. The Continentals of 1779 in Tompkins County. The President. Loan Exhibition of Indian Relics exhumed in South Geneva street, Ithaca. House of Mr. and Mrs. Marcus E. Calkins.

IX. Some Ithaca Families of the First Half of the Last Century. Mr. Charles D. Johnson. Rooms of the Business Men's Association.

X. The Rise, Flourishing and Decline of a Great Art (Wood Engraving). Mrs. J H Comstock, with copious illustration by examples. House of Hon. and Mrs. E. G. Wyckoff.

XI. The Streams and Water Courses of Ithaca: What they are, and some of the things they have done. Horace Mack, Esq. House of Mr. and Mrs. H. V. Bostwick.

XII. Annual meeting, with election of officers. House of Principal and Mrs. F. D. Boynton.

XIII. Presentation by the Historical Society of the framed photograph of Simeon DeWitt to the City of Ithaca. Address by the President and reception by Mayor Gunderman. City Hall, Ithaca.

XIV. Memorial Address on the late Professor Moses Coit Tyler. Prof. Geo. L. Burr. Rooms of the Business Men's Association.

XV. The First Three Pioneers of Ithaca. Dr. Marcus A. Dumond. House of Mr. Julius M. Clapp.

XVI. Notes on the Life of Rev. Samuel W. Parker. Prof. Henry W. Parker. Portrait of Governor O. D. Tompkins, made in Albany, now the property of the DeWitt Historical Society. House of Prof. and Mrs. Cuthbert W. Pound.

XVII. Experiences in the Work of Collecting Portraits of the Presidents of the Village of Ithaca. Thomas W. Burns, Esq. Rooms of the Business Men's Association.

XVIII. History of the Salt Industry of the State of New York. Mr. E. H. Bucklin. Rooms of the Business Men's Association.

XIX. Annual Meeting. Election of officers. Readings from the Order Book of Sergeant Gee, at Fort Sullivan, August to October, 1779. House of Mrs. Caroline B. Wood.

XX. The Underground Waters of Tompkins County, with stereopticon illustration. Prof. Ralph S. Tarr. Vote to erect two memorial tablets, (1) to the Pioneers of Ithaca, and (2) to Simeon DeWitt, founder of the city. Rooms of the Business Men's Association.

XXI. The Cayuga Indians, their History and Character. Vice-President Mrs. Harriet Dewey Ireland. House of Mrs. Louisa Sprague.

XXII. Public exercises, with addresses, in front of the City Hall, in dedication of the tablet to the three pioneers. Received by Mayor Miller.

XXIII. History of Trumansburg. Rev. John S. Niles. House of Mr. and Mrs. William Nelson Noble.

XXIV. Adoption of a seal for the society, containing an outline of Tompkins County with the dates "1799" and "1900," with two pre-glacial flowers between the county map; the outer circle containing the full name of the society. Designed by Mr. Willard D. Straight.

XXV. Unveiling of the Sullivan Expedition Memorial Tablet on State street. Cast in Sibley College Foundry and designed by Mr. S. H. Gutsell. Gov. Benj. B. Odell of New York State delivered the address, and telegrams from the governors of Pennsylvania and New Hampshire were read.

XXVI. Private and Public Life of Col. Ebenezer Mack. Thomas W. Burns, Esq. Military Hall.

XXVII. Annual Meeting. Election of officers. Evolution of the Modern Army and Navy of Japan. The President. House of Hon. Jared and Mrs. Newman.

XXVIII. The Annals of a New York Village (Lansing, Tompkins County, N. Y.). Mary E. Townley. House of F. M. and Mrs. Bush.

XXIX. Affixing of the tablet in honor of Simeon DeWitt to Clinton House. No public exercises.

XXX. Annual Meeting. Election of officers. First impressions of Ithaca, and Reminiscences of a Generation Ago. Prof. Charles Mellen Tyler. House of Mr. and Mrs. William Hazlitt Smith.

OFFICERS OF THE DEWITT HISTORICAL SOCIETY.

President—William Elliot Griffis.

First Vice-President—Frank D. Boynton.

Second Vice-President—Mrs. Harriet Dewey Ireland.

Third Vice-President—Prof. Clark S. Northup.

Secretary—Peter F. McAllister, 213 E. State Street.

Treasurer—Frederick T. Johnson, 101 E. State Street.

Librarian—Andrew C. White.

Members of Council—Henry B. Lord, Edward G. Wyckoff.

INTRODUCTION.

The author of the fascinating narrative and philosophical exposition, herewith published, is the Hon. Samuel D. Halliday, a distinguished member of the bar of Tompkins County, New York, and a public spirited citizen of Ithaca. He has kindly consented to revise and slightly expand the original manuscript, entitled "Rulloff, the Great Criminal and Philologist," which he read before the meeting of the DeWitt Historical Society of Tompkins County on the evening of Dec. 28th, 1900. Mr. Halliday consented to treat this theme, after earnest solicitation. So great was the local interest aroused by the mere announcement that the gathering of his auditors had to be held in the large hall of the Ithaca High School.

Before the hour appointed, the room was crowded and many were standing. Both because of the inherent interest of his theme, and of its intensely impressive delivery, the speaker, who used no notes, fascinated his hearers. Eloquence and dramatic ability made an occasion long to be remembered. To the accomplished speaker, a citizen and as a legal advocate, so long and honorably known in our local and state courts, the large attendance and the keen attention given was a personal tribute.

The episode itself is of far more than local or ordinary legal interest. It attracted wide attention, not only in our own county and state, but throughout the country, and even beyond seas. Involving as the local trial did, the great question of whether a man convicted of murder could be punished when there was no *corpus delicti*, the case was transferred to the most august tribunal in the Empire State, even to the

Court of Appeals, in which such giants in jurisprudence as Daniel S. Dickenson, and the now world-famous Francis M. Finch (though then an unknown young man) confronted each other. The young lawyer triumphed. Mr. Halliday has called attention to a persistent popular misunderstanding, through the printed mis-report, or rather through the reporter's headlines over the text—a common source of error in our newspapers today. From the viewpoint of the history of law, the Ruloff episode is well worthy of the treatment it has received from a master hand. The two Latin words in the technical term, *corpus delicti*, came into common speech, as seen, for example, in the *Century* and *Standard Dictionaries*.

Yet there are other elements which made the personality of Ruloff intensely fascinating, for he was supposed to be a wonderful discoverer. In 1845, comparative philology was very far from being the mature science, rich in credentials and founded on world-wide and age-long induction, which it is today. Anything bearing the air of learning and research, which seemed to contribute to that science was of profound interest. Comparatively few could then have pronounced the verdict, whether Ruloff's amazing and peculiar linguistic industry was a case of misdirection, or whether he had made a real contribution to science. Franz Bopp, called "the founder of the science of comparative philology," had scarcely begun his work when Ruloff came into our country, and had been dead but two years when, caught at last, this crude malefactor came to the gallows.

The undersigned remembers vividly a prolonged discussion at a dinner of the professors of the Imperial University of Japan, in Tokio in 1872, in which German, French, American, British, Russian, Korean and Chinese scholars, directly or indirectly took part. Most of these had heard of Ruloff as a great philologist, or at least of a very industrious person who pretended to be such. The common judgment arrived at was that Ruloff was untrained, had but little insight, and that his

conclusions were unscientific. During the delivery of Mr. Halliday's discourse, the incidents and personnel of this discussion in Japan's capital came vividly to the mind of the writer. Afterwards, on speaking of the Historical Society's meeting, to Judge Bacon of Rochester, Mr. Halliday was invited to repeat his address before the club of professional men, known as "The Pundits," which he did with charm and acceptance.

The DeWitt Historical Society, in publishing the revised and expanded address in pamphlet form, takes occasion again to thank the author, and to call the attention of its members to the Society's work already done. In the hope that coming years may enlarge the general interest and swell the treasures of historical matter and literary contributions, making both the meetings and the publications of the society of increasing value to the local community, besides adding a mite of worth to civilization, we remain the obedient servants of the people of Ithaca and Tompkins County.

Ithaca, October, 1905.

WILLIAM ELLIOT GRIFFIS, President.

PETER F. McALLISTER, Secretary.

SECOND EDITION.

The DeWitt Historical Society takes pleasure in announcing a second edition of Hon. Samuel D. Halliday's paper on Ruloff, which has attracted wide attention in the press and throughout the state. This edition is enriched with further matter from the author, and a very valuable letter from Judge Francis M. Finch, which will be found in the appendix.

Ithaca, N. Y., March 1st, 1906.

WILLIAM ELLIOT GRIFFIS,

President.

RULLOFF, THE GREAT CRIMINAL AND PHILOLOGIST.

Ladies and Gentlemen:—

I have been requested to talk tonight upon Edward H. Rulloff, the Great Criminal and Philologist. When I was asked to speak on this subject I thought it was a very singular one for a historical society, whether local or otherwise, but I have changed my mind in that respect, for the crimes of this man Rulloff have become a part of the history of Tompkins County, and his legal trials have become a part of the judicial history not only of this State but of the Nation. In fact the decision of the New York Court of Appeals in his first murder case has become a part of the judicial literature of the whole English-speaking world.

In the early 40's Edward H. Rulloff, then a comparatively young man, floated, or rather drifted, into the town of Dryden, in this county. He taught school in that town. One of his pupils was Harriet Schutt, whom he afterwards married. He then moved into the town of Lansing, where the murder of his wife and child is believed to have occurred.

One evening in the summer of 1845, Mrs. Harriet Rulloff and her child were seen by Miss Olive Robertson. After that both wife and child literally disappeared from the face of the earth. The next day Rulloff borrowed a horse and wagon of Tom Robertson, a neighbor, claiming that he wanted to take a chest of tools to a relative of his wife's in Mottville, now Brookton. Shortly afterwards Tom Robertson was going by the house and saw Rulloff dragging out what appeared to be a heavy wooden box or chest, and Robertson immediately vol-

unteered to help him lift it into the wagon. The next day a witness saw Ruloff drive back to the house and take out of the wagon what some believed to be this identical box, lifting it out this time all alone, from which fact it was inferred that this box must have been emptied of its contents. A day or two afterwards, having told his wife's relatives and some of the neighbors that his wife had gone "between the lakes," Ruloff took the stage for Geneva, recording his name as John Doe, and the late Edmund H. Watkins, whom most of you remember, was the person who then managed the stage route, and recorded his name as such. From there he drifted on and on westward until he reached Chicago.

It is a well understood fact that there is a kind of indescribable fascination to a criminal about the place where he has committed a crime, and however far he may go away still he wants to come back. Leading and long-experienced detectives all assert that if a crime has been committed, and the criminal is known and has run away, it is not necessary to go after him; all one has to do is to keep perfectly still, and in time he will come back to the very scene of his crime. Such seemed to have been the impelling influence that compelled Ruloff to return from Chicago to Tompkins county. He unblushingly, and without trepidation, went to his father-in-law's, whose daughter and grandchild he had murdered, and visited his wife's brothers and sister. By that time he had been suspected of some foul play, even of murder. He was told of the fact and laughed at the idea. Finally he was pursued so vigorously by public sentiment that he promised Ephraim Schutt, his wife's brother, that if he would go with him to Ohio he would there show him where his wife and child were. Mr. Schutt immediately accepted the invitation and went with him. At Buffalo, after Schutt had got on the boat to go to Cleveland, Ruloff evaded him and escaped in the crowd. The boat moved off and Schutt had to go on alone. Here another queer move was made by this man, who was sup-

posed to be wonderfully shrewd. Instead of going in an opposite direction, he followed to Cleveland on a subsequent boat, where he knew there was liable to be found the evidence to demonstrate the falsity of his statements in regard to the whereabouts of his wife. Schutt was watching for him, detected him, arrested him and brought him back to Ithaca. After that he was tried for the abduction of his wife, the proof then not being deemed strong enough to convict him of murder, or to satisfy the court that the wife was actually dead. He served ten years in State Prison at Auburn, and upon his release was immediately arrested for the murder of his wife. He himself sued out a writ of habeas corpus and asked for his discharge on the patent ground that he could not be convicted of two such inconsistent crimes in regard to the same person, or be twice put in jeopardy for the same offense. The late John A. Williams was then District Attorney, and he once told me that after the argument Judge Balcolm, who had denied the motion, called him to the bench and said, "Ruloff is right; you must summon another grand jury and indict him for the murder of his child."

This was promptly done, but there was such intense public sentiment against Ruloff that no unbiased jury could be obtained in this county, and his case was removed to and tried in Tioga county. The people were represented by John A. Williams as District Attorney and Daniel S. Dickenson as counsel. Ruloff was represented by Boardman & Finch as local attorneys, but the trial of the case on defense was all in the hands of that very great lawyer, Joshua Spencer of Utica. Here was a legal battle between two of the legal giants of the State of New York. Joshua Spencer insisted that Ruloff could not be convicted of murder unless the body or some portion of it was found and identified, and that the death of Ruloff's child could not be established purely by circumstantial evidence. In this position he was sustained in part by an English decision, where the opinion was written by Lord Hale.

F. M. Finch, then but recently admitted to the bar, assumed to argue with the great Spencer that that position was not sound, but he was brushed aside as one so young that his opinion was of no importance.

Rulloff was convicted, and on appeal to the general term his conviction was affirmed.

About this time two important events occurred. One was the escape of Rulloff from the Tompkins County Jail, and the other was the death of Joshua Spencer, his counsel.

Late one evening a team of black horses was driven up to the jail door; Rulloff's cell door was unbolted by an accomplice in the jailer's family and he walked deliberately out and was driven away. He went over the hills through Newfield to Corning. There the team was abandoned, both by driver and Rulloff, and no one ever appeared afterwards who could tell to whom the team belonged or who ever made claim to its ownership. Rulloff was afterwards, however, known to be in Pennsylvania, and at a college in that state he introduced himself, and so impressed were the faculty with his unusual learning in classical literature and so interested they became in his behalf that he was recommended for a professorship in a college in a Southern State. But at about that time, probably for the purpose of raising money to pay the expenses to the Southern college, he robbed a jewelry store, and one version of the transaction is that while walking through the country, with the jewelry in a carpet bag, he persuaded a man to let him ride with him in his carriage, but when he got to his destination the man was arrested as a horse-thief, and Rulloff was seized with him. The very horse he was riding behind was stolen. The stolen goods were found in the satchel, but Rulloff played the innocent dodge and claimed that the goods had been placed in his satchel by the horse-thief to throw suspicion off from himself. Rulloff was released on bail, which some one connected with the college there kindly gave.

He then drifted out to Ohio, but that same infatuation for the scene of his crime again turned his face eastward, and in Chautauqua county he was recognized by a hostler, an old fellow convict of his in Auburn prison. The reward offered soon resulted in his arrest and return to Ithaca.

At about this time I, myself, saw Ruloff for the first and only time. I went to the Tompkins County Jail in company with my oldest brother. I expected to see a monster in human form. In fact, I was a little timid about going at all. It was a long time before I could be convinced that the gentlemanly and mild-mannered man that I saw in the cell was Ruloff, the murderer. One thing impressed me; it was the way in which he carried his head, a little to one side in not a coy but a gentle, winning and winsome manner, while his voice was gentleness itself.

The death of his counsel, however, proved of greater importance to him. Possibly, as I may show hereafter, that death may have saved him from the gallows for the crime then charged against him. The question was, Who should succeed Joshua Spencer? The papers were sent to Nicholas Hill, of Albany, by F. M. Finch, and he was requested to argue the case in the Court of Appeals. Hill looked them over, but his retainer was so large that his employment was utterly impossible. There was nothing left then but to entrust the case to young Finch. Finch finally consented, as he believed it was his duty to do, to argue the case in the Court of Appeals, providing he could argue it upon his own theories, which he had long before advanced to Joshua Spencer and which had been brushed aside. Ruloff protested, and Finch and he had long arguments over the questions. All of the books pertaining to the subject were taken to Ruloff's cell and he made the matter a question of great study. Finally, and reluctantly, but as a matter of necessity, he consented that Finch might argue the case and argue it according to his own notions.

The night before the argument in Albany, Daniel S. Dickenson met young Finch in the hotel, and undoubtedly looked upon him with some degree of contempt. It was the fault of young attorneys in those days, and possibly in these, to make too voluminous and extensive briefs; and, referring no doubt to that habit, Dickenson rather contemptuously asked Finch if he had used a freight car to bring his brief down in. This sarcastic remark cut Finch to the core. He felt it keenly. He thought his situation was trying enough, anyway, and that at least he should be treated with kindness if not respect.

Daniel S. Dickenson, at one time United States Senator, was a very prominent man. He was really great as a lawyer. He was of commanding presence, with a large and handsome face, whose long gray hair hung clear down on his shoulders, according to the custom of those times. He certainly was a formidable competitor for young Finch to tackle. Finch had never argued a case in the Court of Appeals. In fact, he had never seen that court, and when he entered the courtroom the next day his knees showed a wonderful tendency to collide with each other. Nicholas Hill happened to be in court at that time. Seeing the undoubted trepidation of the young attorney, he kindly went up to him, tapped him on the shoulder and said, "Young man, don't be afraid; you are right in this case." This gave young Finch renewed courage, or, as they say in football parlance, he immediately took a "brace."

The case of *People against Rulloff* was soon called and young Finch arose to address the court. He was not known by a single man on the bench. I have recently read his brief on that occasion, and he no doubt started off in his oral argument the same as he did in his brief. At the outset he admitted first that it was not necessary that the body or any portion of it should be found and identified in order to establish death; and, second, that that fact might be established purely by circumstantial evidence. This was directly the reverse of the position that Joshua Spencer had fought the

case on through all the lower courts. This new and bold position took the great Daniel S. Dickenson absolutely by surprise. Finch went further than that. He admitted that if a crime had been proved and death was established, then that his client, Ruloff, was the guilty party and that there was ample proof to show the fact. "But," continued Finch in his brief, "I assert that the circumstance of *mere absence* in and of itself is not sufficient in a criminal case to establish death." That it is not "so strong and intense as to produce the full assurance of moral certainty."

Then Finch went on in his brief, and no doubt in his oral remarks, and made a speech which had in it all that metallic clearness and force which twenty years afterwards as a member of that court made him famous as one of the best judicial writers that ever adorned the bench. Dickenson rose to reply. I have also read Dickenson's brief, and the whole brief is devoted solely to demonstrating the very things which Finch on the start had admitted. There was not a point in it which combatted or even alluded to the startling position which this young David had dared to take. Notwithstanding, he began to argue the case just as if Finch had not admitted his main propositions, when Judge Denio stopped him and said: "Mr. Dickenson, the counsel upon the other side admits those propositions and says that the only question is whether the mere absence is a circumstance strong enough in a criminal case to justify a verdict that the party was dead, and upon that point we would like to hear you." But upon that point, according to Nicholas Hill, who was present, the great Dickenson was absolutely without anything to say, and after a few general remarks he sat down, not confused, for he was too great a man to be confused, but certainly surprised and discomfited. It was time then for young Finch to say something about a "freight car."

In due time the decision was made. The court in effect adopted the entirely new position of young Finch, and upon

that question the case was won. It is quite possible, as heretofore admitted, that if Joshua Spencer had lived and persisted in the same line of argument, he might have been beaten in the Court of Appeals, as he had been beaten in the two lower courts, and Ruloff would have long since paid the penalty of his crime. The decision, reported in the 18th of New York Reports, is persistently misunderstood. The reporter's head note is responsible, in part, for that fact. It is always quoted as holding what Joshua Spenceer argued, but which Finch combatted, namely, that the body or some part of it must be produced and identified before the death of the party could be established and that death could not be established by circumstantial evidence. On the contrary, the decision, while not disputing Daniel S. Diekenson's contention that death could be established by circumstances, still held as a matter of law that the circumstances in that case were not so "unequivocal and certain" as to establish that fact and that the Judge erred in not discharging the prisoner at the close of the evidence.

The result of the decision was that Ruloff must be discharged unless new evidence was obtained, and some fifteen years had gone by and none had been secured.

Then there followed a scene in Tompkins county which never occurred before or since, and probably will never occur again.

I have always been impressed with one thing that is said in the play of David Crockett. It is where David Crockett describes the court which they had up in the mountains. He said, "It was a court presided over by Judge 'Lynch'; a court in which there was little 'larning,' but a heap of justice."

The people of Tompkins county came to the conclusion that the New York Court of Appeals was a court in which there was a "heap of 'larning', but mighty little justice." They decided to assemble on a certain day in Ithaca and organize a court which would be presided over, not by Judge

Balcolm or Judge Mason of those days, but which would be presided over by a judge by the name of "Lynch;" a court from which there would be no appeal; a court which did not indulge in technicalities and refined distinctions; a court in fact in which, according to David Crockett, there would be "little 'larning', but a heap of justice."

The people were provoked to the organization of this court by a little dodger that one night was distributed all over the county. I remember distinctly seeing one of them. I was fortunate enough today to have sent me one of these old circulars. It is now forty years old. It was printed in type which is very dark and which shows that there has been great progress in printing since that time. It reads as follows:

"SHALL THE MURDERER GO UNPUNISHED!

"Edward Ruloff will soon gain his freedom unless prompt and effective measures are taken by the people to prevent it. It is confidently believed that the new trial that has been ordered by the Court of Appeals will not be had, but, on the contrary, it is the intention to secretly smuggle this atrocious murderer out of the country, where he will be set at liberty, to add fresh victims to the number he has already sent unannounced before their God. Since his confinement he has repeatedly threatened that if he is once more a free man he will seek satisfaction in the blood of the relatives of the murdered wife. Shall these things be? Shall this monster be turned loose to glut his tiger appetite for revenge and blood? Shall the ends of justice be defeated? We trust not! We hope not! We implore you, citizens of Tompkins county, let it not go out to the world that there can be no justice had in our midst! In the name of humanity, in the name of the relatives of the murdered wife, whose heart-strings have been lacerated by this fiend in human shape; in the name of the murdered wife and child, whose pale ghost calls to you from the silent tomb to do your duty, we ask you, shall the murderer go unpunished? Shall we let this convicted felon escape? Will you allow Edward H. Ruloff to breathe the same pure air of freedom we enjoy? Will you allow this man, who bears the mark of Cain upon his brow, to go forth in this community and add fresh victims to the grave? No, you will not! You cannot!

"We call on those who wish justice done to the murderer to meet

at the Clinton House, in Ithaca, on Saturday, March 12th, 1859, at 12 o'clock noon. It will depend on the action you take that day whether Edward H. Ruloff walks forth a free man or whether he dies the death he so richly deserves.

"MANY CITIZENS."

Several persons drafted, according to their own idea, a circular, but they were all taken by B. G. Jayne, then a resident of Ithaca, and put in the above form. Some young men, among others Sewell Thompson and James Mix, circulated this paper throughout the county during one night. Whatever might have been the motives of B. G. Jayne, it is certain that Sewell D. Thompson and James Mix and others who circulated it regarded the whole affair at that time as a huge joke, but they soon discovered that they had touched a sensitive and responsive chord and that the people were in dead earnest. For some time before the fatal day designated preparations were made for this hanging. A large battering ram was constructed with which to batter down the jail if Sheriff Robertson refused to surrender his prisoner. This was a large piece of timber about as large as the ordinary telephone pole, but not so long. On one end of it there was an iron ferrule, or ring, to prevent its splitting. Through the timber holes were bored and large sticks passed through for handles. It would take about twenty men to handle it. A gallows was all prepared, ready to be set up. A rope was obtained and the noose properly adjusted. Ruloff could not help knowing, and did know, of all these preparations. He did not have to put his ear to the ground to hear the murmurs of this on-coming mob. For once in his life he was scared. For a time before he was spirited away he was in a state of terror.

Sheriff Robertson, to preserve order and save the county from the disgrace of a lynching, planned to swear in twenty-five or thirty deputies who should protect the prisoner inside the jail, and also to organize and swear in a large number of deputies who should control the crowd outside, but his efforts

in that direction proved unavailing and unsatisfactory. He then determined to resort to stratagem. The jail was continually watched by a citizens' committee to prevent his taking Rulloff out of town, but he decided to make the effort. On March 10th, two days before the lynching, he told Rulloff to get ready and go with him to Auburn the next morning. Rulloff knew how the jail was watched, and believed that with a large number of strong deputies to protect him he would be safer inside the jail than he would be if caught outside with only the Sheriff and one man to protect him. He hesitated, and, in fact, protested. Sheriff Robertson knew that his deputies had failed him, and he said sternly, "Rulloff, you will go to Auburn to-morrow or to the devil the next day." Rulloff preferred Auburn. On the morning of the 11th of March a carriage drove up in front of the jail. Sheriff Robertson came out, got into the carriage and drove off all alone. The two individuals who were then standing guard over the jail thought that was a perfectly safe time for them to go to breakfast. They did so. Hardly had they departed before the same carriage drove back again. Rulloff was immediately led out by an attendant and was driven rapidly to the steamboat landing, and after the boat had swung loose from the dock Rulloff was jumped upon the stern of the boat as that part touched the northeast corner of the landing while turning around. Sheriff Robertson soon had him in Auburn. When the mob came the bird had flown.

The day before this occurrence Sheriff Smith Robertson was the most popular man in Tompkins county. The day after, the people had no use for him. The day before, he could have been elected to any office for which he was fitted, and on any ticket, whatever party may have nominated him. The day after, he would have been defeated by "tumultuous unanimity," and yet he simply did his plain duty.

At noon the late George W. Schuyler entered the office of Boardman & Finch and told them that they had better not

go to their dinners that day by way of the Clinton House, as they usually did, because there was a mob there so angry that they were in danger of personal violence. Judge Finch has told me that, so far as he was concerned, he was perfectly willing to go down a back street, but Judge Boardman would have none of it. They had simply done their duty as attorneys and they should go to their homes by way of the Clinton House, as they always did. There was, in fact, no personal violence done to either of them, but when they saw that crowd they regretted that they had been so rash. When they returned after dinner they were both of the opinion that the longest way around was the safest, if not the shortest, way back to their offices.

This mob was finally organized. Augustus Phillips was elected president. Wild speeches were made. Three gentlemen by the name of Apgar, Hammond and Roat were appointed a committee to go and bring Rulloff and the Sheriff back. A hat was passed and funds raised to pay their expenses, but they went on a fool's errand.

In a short time, however, Rulloff was legally discharged from the Auburn jail. For the next ten years he lived in part the life of a professional criminal.

Does punishment prevent a continuance of a criminal life? One would suppose ten years of hard labor in a State Prison and nearly ten years of anxiety, if not agony, during the legal proceedings of a murder trial would have deterred Rulloff from continuing his life as a criminal. He was well fitted to earn an honest living, and one would suppose that even as a practical question he would prefer to do so, but such was not the case. I believe that criminals, like poets, are born, not made. No amount of punishment could prevent Rulloff from continuing his criminal life, and I sometimes think that no amount of punishment will prevent some people from writing poetry. How many crimes he committed in that time for which he never was arrested or even suspected; how many

crimes he committed and for which he was arrested, but escaped through the technicalities of the law, and how many crimes he committed for which he suffered punishment, will never be accurately known. But during these years there occurred several events in his life which are well authenticated.

Soon after his discharge from the Auburn jail he was arrested and convicted for being one of the parties to a burglary in a county near New York and was sentenced to two years and a half in Sing Sing prison. After serving his time he returned to New York City, and in about a year afterwards he was convicted in Connecticut for being the receiver of some stolen goods. He was sentenced to one year's imprisonment in a penitentiary, and this man, who was wholly without friends, somehow succeeded in obtaining a pardon from the Governor of Connecticut, so that he served only two months. This was accomplished solely by himself, and probably through that magnetic influence which he seemed to exercise over everybody with whom he came in contact. Somehow he rallied friends to his support.

Subsequently he appeared in a town in New Hampshire and passed himself off as a graduate from Oxford and a retired Episcopal minister. His undoubted classical learning and his gracious manners, which he could assume when necessary, rendered him able to pose easily as such. But during all this time he was laying the plans for a bank burglary which was to be carried out by a gang of high-toned burglars for whom he was furnishing brains and legal advice when necessary. The proper time arrived, this gang appeared, and while this retired Episcopal minister was quietly reviewing his classical knowledge in his own room the bank was "cracked," a large amount of money stolen and the burglars escaped. But somehow he succeeded in getting his part of the stolen property. He was suspected and arrested and the stolen goods found upon him. He was convicted and sentenced to ten years in State Prison. In three months he

escaped through the undoubted collusion of some of the prison officers, who were bribed by the wealthy gang for whom he was acting. Rewards were offered and searches made, but he was never identified until he was locked up in the prison in Binghamton for the murder committed there. At one time, also, he went to Monticello, in Sullivan county, for the purpose of paving the way for a bank burglary there. He made a deposit in the bank, but his drafts on the bank were so inconsiderable and his visits to the bank were so frequent and his manner while in the bank was of such a character that somehow the bank officials suspected him. This fact he discovered about the time that his gang came on to accomplish the job, and for that reason it was never attempted. While in prison at Binghamton the cashier of this bank came there and clearly identified Rulloff as the man whom they had suspected.

In about the year 1869 he appeared at Cortland as a lawyer from Brooklyn in defense of a man by the name of Davenport, who, under the name of Dexter, was afterwards with him in the Binghamton burglary. It is believed that Rulloff himself was with the prisoner in committing the burglary, but had escaped and afterwards appeared as his attorney. He not only defended him, but he succeeded in getting him clear.

In the summer of 1870, Rulloff and this Cortland burglar, then under the name of Dexter, and Albert Jarvis, the son of the jailer at the time of Rulloff's escape from Ithaca, went to Binghamton for the purpose of robbing the Halbert store. They entered the store from the rear near the banks of the river. Rulloff remained below while Dexter and Jarvis went on the floor above, where they woke up the two clerks, Merrick and Burrows. These clerks seized the burglars and gave them such a fight as was never before known to be given to any burglars. Each one had his man and was inflicting the severest sort of punishment, and each criminal was crying for help and assistance. Rulloff went up the stairs and shot his revolver towards Burrows, whether intending to hit him or

not is not certain, but the bullet struck the banister and splinters flew into Burrows' face, and, believing he was shot, he let his burglar go and retreated. Merrick continued the punishment that he was inflicting and had his man very much weakened and nearly reduced to subjection when Ruloff shot him through the head. Burrows ran to the street and gave the alarm, while the burglars started to retreat across the river. The fire-bell was rung, and when the citizens assembled they were told of the terrible crime that had been committed. It is said that the hand of every criminal is against the honest man and the hand of every honest man is against every criminal. This was certainly so on this occasion. It would seem that every person in Binghamton constituted himself a self-appointed detective, and there was a solemn determination that these three burglars or murderers, who were then undoubtedly in the city, should never escape. Every nook and corner of the city was searched. The city was literally picketed and surrounded by men armed and unarmed. Every ravine, every piece of woods, every road was carefully guarded and watched. All night long and all the next day, and until midnight of the next night, this searching and this guarding was kept up, but without any trace or hope of success. Many persons were detained and some arrested, only to be promptly discharged. It was uncomfortable, if not unsafe, for any stranger to be in Binghamton during that time. Every train was delayed until the out-going passengers were examined and questioned.

At about midnight on the succeeding night, two men who were watching the railroad track some distance out of the city discovered a man walking along, carrying an umbrella and a satchel. They hailed him and commanded him to stop, but instead of doing so he sprang across the track just in front of a long coal train, thereby putting the train between himself and his would-be captors. When the coal train had finally "lumbered" past, some time had elapsed and the stranger

had disappeared. This certainly was a suspicious circumstance. Another vigorous search was made. People were aroused, and after an hour's effort the stranger was dragged from his hiding place and taken back to Binghamton. He did not appear like a burglar or a murderer, and while his reason for going out of the city in that way was not entirely satisfactory, still there was nothing tangible against him, except his patent effort to escape. At about that time his two companions, Jarvis and Dexter, who had been drowned while crossing the river, floated to the surface and were dragged out of the water. Nobody knew them, or where they came from, but it was evident that they were two of the three burglars. The stranger was then taken in their presence, but he denied that he had ever seen them. As they were taking him from the room he asked to go back, and then he took another position and looked them over carefully, apparently to convince his captors that he was eager to be sure whether he could be mistaken. Their faces were swollen and somewhat distorted. He again asserted that he had never seen them. He was a good actor, and this scene impressed his captors favorably. Photographs of the two drowned men were taken, and afterwards they were clearly identified as Jarvis and Dexter. The stranger was detained for a day or so, and one day, when Peter Hopkins, the district attorney, and the coroner were vigorously examining him in the presence of something of a crowd, Judge Balcolm, of Binghamton, who, as a judge, knew Ruloff very well, came into the room where the examination was being had. The stranger had given, of course, an assumed name. Judge Balcolm and the stranger immediately recognized each other. Judge Balcolm said: "Gentlemen, this man is not what he claims to be; he has given a wrong name. He is Edward H. Ruloff, who years ago was convicted in Tompkins county for murdering his child." Then there occurred a scene which showed the wonderful adroitness and resourcefulness of this remarkable man. With the utmost coolness, he arose and said:

"Gentlemen, this is all true. I am Edward H. Ruloff. I was convicted of murder in Tompkins county, and that is just the reason why I was trying to escape, and now you know all. I happened to be in town the day a terrible murder was committed, and I knew if I were recognized I would be annoyed on account of my reputation." As the only proof they had against him was the fact that he tried to escape, and as this explanation was so extremely plausible, he was discharged, the district attorney going so far as to shake hands with him and express regret that an innocent person should have been so annoyed. I do not know whether Ruloff had in him any sense of humor or not, but he must have been internally amused, and he must have indulged in an internal smile, at least, when he heard that remark. It was immediately rumored throughout the city that one of the persons suspected and captured was the celebrated criminal and murderer, Ruloff, and some one in Binghamton happened to know that Ruloff, after he escaped from the Ithaca jail, had frozen one of his feet so badly that the big toe upon his left foot had been amputated.

A pair of shoes had been left behind by the fleeing burglars. These were immediately obtained, and the left shoe showed an indentation over the big toe of the left foot. Here certainly was tangible proof. Why that shoe was not resorted to before has always remained with me a mystery and cannot be explained except upon the theory that many others had been detained and discharged without making use of it. Again the alarm was given. Again Binghamton was thrown into a state of feverish excitement. Again officials and citizens sallied forth to capture this man. Teams were obtained and men drove rapidly along all roads. One party finally saw Ruloff walking very rapidly upon a railroad miles out of the city. He had made remarkable time. They drove ahead, went across through the fields, and suddenly confronted him and arrested him. He protested. One of his captors said to

him, "Ruloff, pull off your boot." At this Ruloff started to pull off the boot upon his right foot, when the captor said, "No, no, pull off the other boot." At this time, although Ruloff showed no nervousness, the perspiration seemed to ooze from every pore. He knew that tell-tale absent toe, and he knew of that tell-tale shoe that in his haste he had been compelled to leave behind. The shoe exactly fitted his deformed foot. He knew the bell was rung and his time had come. He was immediately taken back to Binghamton. Indictment, trial and conviction soon followed, and all appeals to higher courts resulted in the affirmance of his conviction.

Two events or circumstances only in connection with that trial are of interest to people in Tompkins county. As already stated, Albert Jarvis, whose dead body was found in the river, was the son of Under Sheriff Jarvis, who had charge of the Tompkins County Jail when Ruloff escaped, and was the one that undoubtedly opened the jail for him when he escaped. When the Cornell University opened, some ten years afterwards, Albert Jarvis, who left Ithaca when Ruloff did, or about that time, returned to Ithaca and was seen to mingle among the crowd upon the hill that had assembled at the inauguration. That night Wilgus' store was robbed of silks but nobody here knew that Jarvis had been leading the life of a criminal, and no one thought of connecting him with that burglary until after he was identified as one of the burglars in Binghamton. It was subsequently demonstrated very clearly that he was one of the parties who robbed Wilgus' store, and although Ruloff was not here, there are circumstances indicating that he helped dispose of the goods.

Another event is of local interest. Albert Jarvis' mother came or was brought to Binghamton, and she identified her son by the photograph. The great effort of the prosecution was to connect Ruloff with that son as an associate, but when the mother was taken in the presence of Ruloff she denied that she ever saw him or even knew him, which was, of course,

a palpable falsehood. This fact convinced everybody in this county that after Ruloff was released from prison, not only the son, Albert Jarvis, but the mother also followed the fortunes of this fascinating criminal; and subsequent events upon the trial clearly demonstrated that that was true. She knew the life her son was leading with Ruloff. She knew of their various burglaries and their plans, and she sometimes aided in disposing of the goods. During this time, also, a good deal of sentiment was wasted over this man Jarvis. It was believed that Ruloff, who could and often did exercise a malign influence over anybody who came in contact with him, had, while a prisoner in the Ithaca jail, corrupted this man Jarvis when he was a boy and made a criminal of him. While this may be true in part, it is entirely certain that he had in young Jarvis a very susceptible subject. Jarvis was a thief from childhood, and at one time served out a sentence in the jail over which his own father was a keeper. Everything connected with Ruloff seemed to have been surrounded with such strange circumstances.

The question is often asked, Did Ruloff ever confess to the murder of his wife and child?

S. B. Cushing of Ithaca, at one time Attorney-General of this State, was his attorney when he was convicted of abduction. It is related that Cushing, upon his deathbed, repeated an alleged confession of Ruloff's. Ruloff, while in the Binghamton jail, denied it and characterized the story as a pure fabrication; and Judge Finch recently told me that he did not believe a word of it. "Certain it is," said the Judge, "he never confessed to me, and I stood as close to him as anybody ever did."

According to this alleged confession, Ruloff chloroformed his wife, opened an artery, took up a board in the floor and allowed the blood to flow through upon the ground underneath until she died. A few weeks afterwards that house was searched from cellar to garret by a large number of people

eager and anxious to find some proof of violence. Every nook and corner was searched, and that floor could never have been taken up without the board showing some evidence of recent disturbance. The very place to look for evidence of crime in such cases is under the floor, and if one drop of blood had been discovered, that one drop would have been a circumstance showing violence, and that circumstance, together with the circumstance of long absence, would have made a case which Judge Finch could not have reversed in the Court of Appeals.

After Rulloff was hung, E. H. Freeman of Binghamton, one of the editors of the *Daily Leader*, published an alleged confession made to him. I have recently read it, and I confess it is so circumstantial in detail that on the first reading I thought it might be true, but a second and a critical reading showed at once that a person with half an ordinary imagination could have gotten up the confession with the facts that are well known in the case. It was proved that Rulloff was jealous of his wife, and they had frequent quarrels about one Dr. Schutt, who was a cousin of his wife. According to this alleged confession to Freeman, Rulloff and his wife quarreled. He declared his intention to leave her, and insisted on taking the child with him. He tried to seize the child by force. There was a struggle, in which, in a fit of anger, he seized an iron pestle to a mortar and struck her a blow on the head which crushed her skull. If this had been so, there must have been a violent hemorrhage. Blood would have been upon Rulloff's clothes, upon the carpets and upon the floor, and no amount of scrubbing could have washed out the "damned spots" so that the eagle eyes of the many eager detectives and neighbors would not have discovered them, and this discovery would also have been a circumstance showing violence, which, together with the circumstance of absence, would have made a case for the jury.

Rulloff himself was a German, and he was like that Dutchman that I once heard of who was brought before a magistrate

charged with some petty offense. He was asked if he confessed. His answer was that "he 'fessed' no faster than they proved." It is safe to say that Ruloff as a criminal never "fessed" any faster than they proved.

After the Court of Appeals had laid down the law which was to set Ruloff free, as I have already shown, he insisted that it should be put in the judgment that he was not guilty. The crime of murder never outlaws, and he knew that if that body or any portion of it was ever found, he might still be tried over again and then certainly convicted. Was he wise in thus insisting? An event occurred in this city a few years ago that convinces me that he was. James B. Taylor, Sr., superintended the laying of the Ithaca sewers out into the lake. One day, when the water was of glassy smoothness and stillness, he looked down from a boat, in which he was being rowed, into some water ten feet deep and there distinctly saw a board lying flat, which might have been the cover to a wooden chest or box. It was the proper size and length, and he immediately said to himself, "That box contains the bodies of Mrs. Ruloff and her child." He remembered that it was at about this place that Ruloff was believed to have obtained a skiff and rowed out into the lake and sunk the body. He recalled that hundreds of dollars were expended in dredging this very portion of the lake. So impressed was he with the possibilities of this discovery that he went back to land and got a long pike-pole with an iron hook on it and tried to move or disturb this flat board, but it seemed to be bedded or held in the sand or ground or otherwise held down. He recalled that a wooden chest continually under water would never, in fact, rot. Finally, failing to move the chest in any way, he made an observation on each bank so that he could go directly to that spot again, and left the scene with a determination to continue the investigation to the end. But the wind soon ruffled the water, storms soon came on in the fall, and there never came another day when the lake was in such a mirror-like condition, and the matter was dropped.

When Mr. Taylor recently related to me this circumstance I wanted to join with him and others in following out this clue, but afterwards a careful reading of the sworn testimony threw some, but not entire, doubts upon the question whether that investigation would do any good. The evidence in part indicates that Ruloff must have removed the remains from the box and then brought the box back empty to his home the next day. The proof, however, shows that this need not necessarily be true. Ruloff was attempting to or about to put the box into the wagon all alone, when Tom Robertson offered to assist him. He probably could have done so without assistance. The next day a witness saw him drive back to the house and all alone take the box out, from which the witness afterwards inferred that the box was or might have been empty. I can imagine at least how that man, loaded with that awful freight, wandered around all night thinking and seeking some way to dispose of the bodies, and then when daylight had appeared, and not having disposed of the remains and fearing the daylight, he returned to the house with the remains still in the box. This theory finds corroboration in the further proof that on the next night, at 10 o'clock, he hired one horse and a democrat wagon of a liveryman in Ithaca, went away with it and did not return until long towards morning. Where was he during that night? What was he doing? It is quite possible and probable that during the preceding day he had located a place where he could steal a skiff at night and dispose of the remains in the lake, and that night he did so, sinking box and all, for certain it is that after that night, so far as evidence on the trial shows, the box disappeared just as mysteriously as his wife and child did the night before. What a strange thing it would be if, at this late day, that great mystery should be unquestionably solved.

I do not know why it is, but I often think of Aaron Burr in connection with Edward H. Ruloff. I do not know whether the comparison is unjust to Burr or unjust to Ruloff. Odds

are even with me on that question, for of all men that I deem thoroughly despicable Aaron Burr takes a prominent place. At all events, there are occurrences in the lives of both of them that suggest and provoke a comparison.

Aaron Burr killed Alexander Hamilton under circumstances to me, at least, nearly, if not quite, as atrocious as any of Ruloff's murders. Ruloff may have murdered his wife and child in a fit of jealousy that moved him violently, and he subsequently shot young Merriek at Binghamton apparently in defense of one of his fellow burglars. Burr deliberately shot Alexander Hamilton in cold blood in a duel at a time when dueling had become so much of a form and farce that Burr well knew that the little matter of so-called "honor" in such transactions was always thoroughly satisfied if the duelists shot in the air. Alexander Hamilton did shoot in the air, but Burr, knowing all of the above facts, shot deliberately to kill, and he did kill. Aaron Burr was tried for treason, a crime next to that of murder. The jury rendered what is called a "Scotch verdict," namely, "not proven," which simply means you are guilty, but it hasn't been proved. The New York Court of Appeals rendered a "Scotch decision," if not a "Scotch verdict," when they said in substance to Ruloff, "You are guilty, but it hasn't been proved." Burr insisted that the jury must render a verdict of not guilty. Ruloff himself made an application to the court and argued at length that the court should put in its decision the fact that he was not guilty. Burr succeeded in his application because, under the law, he had a right to a verdict of either guilty or not guilty. Ruloff failed in his application because, under the constitution, the jury and not the courts had the right to pass upon the question of guilt or innocence.

Both were small in stature and big in intellect. Both had smooth exteriors and fascinating and persuasive manners, but within both were cold-blooded villains and moral lepers.

But enough of Ruloff as a criminal. How was he as a philologist?

In the early 40's Ruloff was a student at the old Ithaca Academy. He was at that time studying medicine with a Dr. Day, a sort of herb doctor here in Ithaca. James Thompson was the principal of the academy, and Ruloff was a special student, coming once a day simply to recite in Greek. There was but one other student in the academy at that time studying Greek, and there sat by Ruloff each day in the classroom as his only classmate a young boy whose learning and legal abilities afterwards saved him from the gallows. I refer, of course, to F. M. Finch. What a strange world this is and how many strange turns there are in it!

During the ten years that Ruloff served in Auburn Prison he had a great deal of leisure, and he devoted the whole of it to the study of the classics of which he was extremely fond. The students and sometimes the professors in the Auburn Theological Seminary at that time held Bible classes in Auburn Prison. Ruloff always attended these Sunday classes for intellectual if not for spiritual comfort. He amazed and astonished these young men, fresh from their classics, with his knowledge of Greek and Latin as well as of the Bible itself. At one time one of them asked him if he had a Latin dictionary, to which, with his usual superabundant conceit, he replied that he didn't need any,—he was a dictionary himself,—a fact which in his case came very near being true.

Subsequently, between '60 and '70, with his business as a professional criminal, he also devoted himself very extensively to philological studies. He said in Binghamton that the happiest days of his life were those that he had spent in the great libraries of New York City in pursuit of philological knowledge. In that time he prepared in manuscript a work upon Greek, in and by which he sought to establish by thousands of illustrations some peculiar theory of his in regard to the origin or formation of languages. But with all his income from burglary and thievery he could not get money enough ahead to publish it.

In 1869 he appeared as Edward Lurio at a philological convention at Poughkeepsie and there persuaded the delegates to appoint a committee to examine his manuscript with a view of having it published by that convention in the interests of philological knowledge. The committee was appointed. They regarded the manuscript with great interest. It showed wonderful research, great knowledge, and was written in a hand as beautiful as copper-plate, but they regarded him withal as a sort of a monomaniac or crank. They simply reported that the convention had no money with which to publish the work.

Ruloff lived during these years upon Third avenue, New York, in an entirely respectable house and in a respectable quarter. His good landlady never had a more quiet and unobtrusive roomer. He paid his rent regularly. There was no drinking or carousing in his room. His visitors, who were few, appeared to be entirely respectable. To her he was a quiet, mild-mannered, unassuming gentleman who was devoting his whole time to writing and studying. If Ruloff had had means, I doubt whether he would have committed any considerable thefts during this time. It seemed to be only when his means gave out that he and his gang at this time sallied forth to commit a burglary or two, all in the interests of philology.

Some have compared Ruloff to Eugene Aram, and the comparison is not at all inapt. Aram was an Englishman who committed murder in the seventeenth century in England. The body of his victim was not discovered until fourteen years had gone by, and then Aram was arrested, convicted and executed. The bodies of Ruloff's first two victims were never discovered, and for those murders he was not executed. The only conceivable motive which compelled Aram to commit his crime was to obtain means with which to pursue his studies. Many of the last crimes of Ruloff were committed for the same purpose. Each had been a school teacher. Each had been partly self-educated and had made philology

a special study. Each pursued his philological studies in part while in prison. Each prepared extensive manuscripts on his special subject which were never printed. Ruloff's special subject was "The Origin or Formation of Languages," while Aram left an extensive manuscript on "The Outline of a New Lexicon." Each claimed to have made special discoveries on the question of the origin of languages. Each exercised a great influence over those with whom he came in contact, and each had a capacity to attach to himself strong friends. The name of Aram has been given a world-wide reputation, at least among the English-speaking people, by that great novel of Bulwer's entitled "Eugene Aram." The startling events in the life of Aram were very few when compared with the similar events in the life of Ruloff. Possibly some time some modern Bulwer, or Anna Katharine Green or A. Conan Doyle may yet weave out of the life of Ruloff a novel as weird and as interesting as Bulwer's "Eugene Aram."

A scene occurred during his trial at Binghamton which illustrated his devotion to his special work. The detectives had searched his rooms, and among other things had found this manuscript. It was of no practical importance upon the trial, but among other articles was brought into the courtroom and shown. Ruloff did not know that the prosecution had this manuscript, and when he saw it he showed visible emotion. He seized it and fondled it and caressed it, and talked to it as he would to a baby. Here were the results of the ambition of his lifetime. Upon this manuscript he had spent not only days and weeks and months, but years of most painstaking and intelligent work and study. He had a burning ambition to publish a great work on philology. This man, who could murder his wife and child in cold blood, who could be guilty of all sorts of crimes, who never knew what true love or true friendship to his fellow-beings was, who certainly was not an "abou Ben Adhem," still loved some things—he loved that manuscript. He idolized it. He seized it and almost

hugged it. For a moment he seemed to forget where he was and that he was being tried for murder. This scene was, however, brought to a close by the judge suggesting that that was not an occasion for philological study, and the trial proceeded, but not until Ruloff had turned this incident in his favor. Holding up the manuscript, he dramatically said, "Here is a book which no five hundred men can reproduce in ten years. This is the evidence that I am not prowling about the country robbing stores, but that my life in New York City is one of labor and close study."

. Another singular scene occurred upon this trial. Ruloff took an active part in the proceedings, objected to the evidence, argued questions of law and cross-examined the witnesses. The surviving clerk in the Halbert store was very conscientious, and on account of the darkness he would not positively swear that he could identify Ruloff as the man who did the shooting, and would not positively state that Ruloff was there at all, although he believed he was. Ruloff made the very common mistake of cross-examining too long. He plied him with all sorts of questions to have him swear to the exact degree of the darkness, when the witness suddenly turned on him without any apparent design and sharply said, "Why, you know how dark it was; *you were there.*" That was the very fact that he would not swear to on his direct examination, and Ruloff had himself drawn it out. The feeling was intense, and when that blow was delivered the audience broke forth in the most tumultuous applause, which the jurors apparently enjoyed, if they did not actually take part in. When the applause had subsided, Ruloff's attorney protested and asked the court to rebuke the crowd and instruct the jury not to pay any attention to it. This the judge failed, if he did not refuse to do, simply making a remark which was more of apology for the audience than a rebuke. That remark and that scene would have reversed the conviction of the average criminal, but the higher court did

not so regard it in "*Rulloff's case*." There are times even in judicial proceedings when the courts yield to or are swayed by sentiments almost akin to lynching. The trial of the notorious boss, John Y. McKane, for election frauds, is another illustration of that principle. There were legal errors enough in his trial to reverse half a hundred convictions in the case of an ordinary criminal, but not so in the case of John Y. McKane, and the courts have ever since that conviction looked upon the rulings in that case as not to be followed as precedents, and in opinions have distinctly so stated.

After his conviction of murder he resumed his philological studies in the Binghamton jail. I remember that during our late Civil War many petty criminals were permitted to go unwhipped of justice, providing they would enlist and serve their country, and Rulloff conceived the idea that he could so interest classical students in his new theory that they would persuade the Governor to commute his sentence to State Prison for life in order that in the interest of classical knowledge he might pursue his investigations. He clung to that hope and continued his philological work for some considerable time after he could distinctly hear the workmen erecting his gallows in the adjoining yard. This circumstance illustrates at how small a straw a drowning man will clutch.

There never was a criminal, particularly if he was sentenced to be hung, so base but that some kind-hearted or sentimental people would sympathize with him, and in Rulloff's case an application was made, which strangely received some support, for the commutation of his sentence from hanging to State Prison for life. This application was based on the theory in part that he should be permitted to continue his philological researches. Among the supporters of this petition was no less a person than Horace Greeley, always kind-hearted and singularly susceptible at times to the claims of fakirs and frauds. Horace Greeley started at one time to go and see Rulloff in the jail at Binghamton, but, on the contrary,

he asked a friend to go in his place, saying frankly that his sympathy for Ruloff was so great that he could not control his emotions. If the great Greeley had at that time been Governor of the State of New York, Edward H. Ruloff would have died a natural death. Fortunately, he was not Governor. However, his friend made the journey as requested. He reached Binghamton a few nights before the execution, and succeeded after a great deal of effort in getting permission to interview Ruloff, the interview occurring after midnight. He had in his pocket the proof sheets of a translation by Bayard Taylor of "Faust," which he corrected in part after he left New York. Some circumstance leading up to it, he showed Ruloff the proof sheets. Ruloff took a great interest in them, took them in his hands, read extracts in the English, and then from memory reproduced the German, which he pronounced beautifully. When he had finished and had handed them back, Ruloff said, "I want to get a copy of that work when it is published." But when he was reminded that he probably would not be alive at that time, a fact which seemed to have passed out of his mind, he laughed, and, as far as any could observe, his laugh was not pretended or forced, but perfectly natural. Ruloff was a great actor. Nothing seemed to throw him off from his balance or to disturb him. He either acted superbly on this occasion or else he was so absorbed in the new translation of "Faust" as to forget his surroundings. It may be he had the power of will to enable him to dismiss for the time being all thought of his then predicament.

His favorite poem was "The Prisoner of Chillon." Possibly that had appealed to him because for a long time he was not only confined within the cells of the Tompkins County Jail, but was also shackled to the floor, a species of barbarism no longer in use. He wore these shackles so long that they made a distinct callous around his ankle. When he escaped from the Tompkins County Jail, the circular offering a re-

ward for his re-capture referred to this callous as a sure means of identification. Is it any wonder that "The Prisoner of Chillon" appealed to him? On this night of the above interview he repeated portions of "The Prisoner of Chillon" with beautiful expression in three different languages. Here he was in a prison cell at midnight, sentenced to be judicially put to death in thirty-six hours, and almost under the shadow of his own scaffold, and yet he could repeat this poem with apparent, if not real, appreciation. What other human being could have done the same thing under the same circumstances? The mission amounted to nothing except to satisfy that remarkable man, Horace Greeley. A short time afterwards, while in San Francisco, the same friend of Greeley's visited the art gallery of the celebrated photographer, Ruloffson. At that time Ruloffson was on his roof, where it was customary in those days to submit negatives to the sunlight. Suddenly a great commotion upon the streets attracted him outside, and the celebrated Ruloffson lay upon the sidewalk, crushed and mangled. Ruloffson had fallen from the roof to the sidewalk. Greeley's messenger went with the crowd to the street and saw his mangled remains there. A miniature picture of some unknown person was found in his inside pocket. It was produced. No person present could tell who it represented, except Greeley's messenger, who recognized it at once as the picture of Edward H. Ruloff, whom he had interviewed in the Binghamton jail a few nights before his execution. Ruloff's correct name was Ruloffson, and the celebrated photographer of San Francisco was his brother. Ruloffson's family did not know of his relation to the celebrated Ruloff of New York, but notwithstanding his brother's awful deeds and life, and notwithstanding that he had disowned him, still he seems to have always carried the picture of his unfortunate brother next to his heart. This demonstrates that, after all, "blood is thicker than water." Death, disaster and destruction seemed to always follow in the trail of this arch criminal.

Even the old town hall bell that had for years pealed out the alarm of fire in Binghamton was rung so violently the night of the murder that it was cracked and its voice was never heard again.

Although possessing a violent temper and at times very combative, he always seemed to be the master of that temper and able to act with discretion in emergencies. The riotous scene already described in the courthouse, although seriously damaging to him, did not seem to phase him one particle. He remained on this occasion as cool and deliberate as if nothing had occurred. He never got "rattled." This ability would have served him well as a surgeon, well as a general, and well as a lawyer. It did, in fact, do him good service as a criminal.

He had the extraordinary power to ingratiate himself into the good will of everybody with whom he came in contact, and that was particularly so as to his jailers, whom, of course, he saw frequently. Notwithstanding his horrible crime, he somehow succeeded in making them like him. At one time during his stay in the Ithaca Jail he was to be transferred some distance by the sheriff in a wagon. He had almost persuaded the sheriff to rely on his honor and good will towards him and not handcuff him, telling the sheriff that he did not like to travel through the country handcuffed, and promising that he would not attempt to escape. Yielding, however, to public sentiment and others' advice, the sheriff put on the handcuffs and told Ruloff that they would remain to the end of the journey. Finally, the sheriff confidentially said to him, "Ruloff, I have always been a friend of yours and kind to you. If you could escape by killing me, would you do it?" Irritated, no doubt, by his failure to persuade the handcuffs off from his wrists, he replied savagely, "I would kill you like a dog." The charm with which he had enveloped that sheriff was broken by this incautious remark. But such, in fact, was Ruloff. Generally, however, his methods were those of the persuader, the charmer and the snake.

He was supremely selfish and never knew a friend as such. Albert Jarvis as a young man unbolted the doors of his cell and permitted him to escape from the Tompkins County Jail. Some twelve years afterwards, while the same Jarvis and his companion, Dexter, were wading the river after the Binghamton burglary and murder, there was sufficient evidence to justify the belief that he deliberately murdered them both to get rid of them and to enable himself to escape. They were covered with blood and could easily be identified as two of the persons in the Halbert store. They were a burden to him and "he killed them like a dog".

He never showed the slightest gratitude to Judge Finch for his professional services, and he would have treated him in the same way if thereby he could have served his own selfish interests.

When the two young clerks woke up that fatal night and began their battle with the burglars, it is quite possible that Ruloff instantly formed the plan to "kill them both as dogs" for the sole purpose of giving him and his companions a few hours more time in which to escape. This he supposed he had done, but afterwards, when he was wading the river with Jarvis and Dexter, he could distinctly hear the commotion already beginning in the town. One of the clerks must have escaped death, and the people would soon be upon his tracks. Prompt action was demanded, and, as I have already pointed out, he quickly disposed of Dexter and Jarvis. He then thought the coast was clear for at least his escape, but he was mistaken. Somebody has somewhere said that "Circumstances are God's detectives. With their sightless eyes and voiceless tongues, they see farther and speak louder than the average human witness."

When on that night Ruloff was fleeing from the scene of his crime, and the fire-bell was ringing, he met a person running rapidly towards the scene of the excitement. That person called out, "Where is the fire?" To this Ruloff deliberately answered, "Halbert's store," and then with equal delib-

eration walked on. This remark showed Rulloff's shrewdness as well as his coolness. If he had told the exact truth and had said that a murder had been committed in Halbert's store by burglars, the startling nature of this information would have led the passer-by to give the informant a more searching look. He might also have been surprised that this stranger was going away from such a scene, and for that reason might also have put himself in better condition for future identification, but when afterwards Rulloff was captured, this person felt very confident that the individual he met that night was Rulloff, but he could not identify him with any satisfactory degree of certainty. If many other people had met Rulloff that night under precisely the same circumstances, their evidence would not have been one-tenth as satisfactory and conclusive as the evidence of that sightless and voiceless witness, the tell-tale shoe which had been left in Halbert's store that night, and which exactly fitted Rulloff's deformed foot. On that night he was being silently and relentlessly pursued by that little circumstance, one of "God's detectives," and whether he knew it or not, the fire-bell, which was still ringing, was, in fact, sounding his death knell.

There are many theories as to how he killed his wife. They are all mere matters of speculation. If, as many believe, he in a fit of anger struck his wife a blow which proved to be unintentionally fatal, his first thoughts must have been as to how he could escape punishment for that mad act. But what was to be done with the infant? The only practical thing for him to do under those circumstances, and according to his way of thinking, was to put "the child in the grave with its mother." This he did.

Rulloff was a great infidel, a great atheist and a great scoffer. When Judge Hodgeboon pronounced the sentence of death upon him, he preceded the sentence with the usual preliminary remarks, during which time Rulloff stood perfectly placid and immobile until the judge reached that part where

he advised him to make his peace with his Maker, and then an undisguised sneer passed over his countenance.

Soon after his first conviction of murder several clergymen visited him in the Tompkins County Jail and tried to interest him in the subject of religion, and especially in regard to his death. But he skillfully diverted their attention from these subjects and led them into conversation in regard to the sciences and the classics. He amazed them with his knowledge of these subjects, and they left the jail more interested in the great learning of this remarkable man than in the subject which they came to discuss.

He was also intensely profane. While in the presence of ladies and others to whom profanity might be offensive, he would abstain from the use of profane words; still, in his ordinary conversation and while unrestrained every sentence was punctuated and filled with profanity so violent as to make any person shudder.

The day that he was to be executed at noon, he arose early and talked freely with a good many different persons, and upon all questions that suggested themselves, but during that whole forenoon it was noticed that only once did a profane word incautiously pass his lips. I am not here to preach a sermon or to point a moral. I simply refer to this as one incident in the life of this remarkable man.

The question has often arisen in my mind as to whether Ruloff had in him any sense of humor. Did he ever laugh heartily, or did he always smile as a villain? Was he fond of the theatre and the opera? Did he ever attend amusements? In studying his life very carefully, I cannot find that any of this was true. He was fond of playing cards, and particularly whist, and what a whist player he must have been! The nearest approach to humor that I ever found occurred in a remark he made as he was about to start for the gallows. The sheriff asked him if he would like to have a minister present or a prayer uttered. He promptly said, "I don't want any

minister to pray for me; but if you want a minister there to pray for the crowd, I won't object." This was not humor; it was bitter, malignant sarcasm and misanthropy. He was immediately led to the gallows, and there occurred a final scene which was most remarkable. His arms were pinioned or tied at the elbows with a rope across his back, and his hands were inserted in his pants pockets. When the fall came the very shock caused his right hand to be yanked out of his pocket. His neck was probably that instant broken, but he raised that hand and put it back into his pocket. Every spectator stood aghast. Was this man in fact superhuman? This showed that at least he was different from if not actually greater than the average human being.

Learned physicians claim that if Ruloff's neck had been actually broken by the fall, such a scene would have been impossible. Their contention is that his neck was not broken; that he was simply strangled to death. Be it so. He had received a terrible shock, and even if after that shock he was being strangled to death, what other human being could have done the same thing even under these circumstances? All this he actually did after he got to the "end of his rope."

At the post-mortem of Ruloff it was discovered that his brain weighed ten ounces more than the average brain; that his skull in the thinnest part was three-eighths of an inch thick, and in nearly all of it it was fully half an inch thick. The usual thickness of a man's skull is less than one-fourth of an inch, so that his skull was more than twice as thick as that of the average human being.

Richard Porson, the celebrated Greek philologist, at one time in the last century a professor of Greek at Cambridge University, England, also had a remarkably thick skull and a phenomenal memory. There is a trace of dry humor in the following quotation from one of his biographers:

"The professor was remarkable for a strong memory, which was not so puzzling as the great perfection of other faculties;

for to the utter confusion of all craniologists on an examination after death it turned out that this great scholar was gifted with the *thickest skull* that ever was dissected. How his vast erudition could get into such a receptacle was the only difficulty to be explained; but when once in it seems there were very *solid* reasons to prevent its getting out again."

The fact that both these philologists had remarkably thick skulls and phenomenal memories is to say the least a singular coincidence.

I have no faith in phrenology. I do not believe that anybody can tell what is inside of a person's skull by feeling of the bumps upon his head, any more than he can tell what is inside of an iron safe by feeling of its knobs and hinges. Still there may be some relation between a great memory and a thick skull. Let those who are curious and so inclined try to solve that question; and when solved, if solved at all, the result will be of no more practical importance than the theories as to the origin or formation of languages which Ruloff claimed he had discovered or would discover if the sheriff would only kindly give him time.

Ruloff was born in St. Johns, New Brunswick, where he remained until as a young man he came to this State. His parents were reputable people, and his brothers and sisters were above reproach, and although they were watched over by the same father and mother, Edward early went wrong. In youth he was a clerk in a clothing store. The store burned up. It was rebuilt and he was re-employed. Again it burned up. He was suspected and never employed afterwards by the same party. It was believed that his object in burning these two stores was to conceal a considerable theft from the goods of the store which he had taken away the night of the fire. A short time afterwards he was convicted of stealing from another store. He was then confined for two years in that nursery for crime and school for criminals, known as a penitentiary. The saddest scene that ever occurs in court is when

some young boy for some first offense is sent to prison for the first time. I have no faith in so-called reformatories. I think there should be written over the door of every prison, whatever may be its name, the words that were written by Dante over his terrible "Inferno": "Abandon all hope, ye who enter here."

The following is a very good description of Rulloff as he appeared in the Binghamton Jail. It was written by one who knew him very well, viz:

"Rulloff is now fifty-one years old, about five feet nine inches in height. He weighs about 170 to 180. He has an extremely large head, small and delicate hands, which do not show hard labor. His eyes are black, and when he is animated in conversation they shine like diamonds. He has heavy dark hair and whiskers, but none on his upper lip. They are slightly silvered from his advancing years. His voice is sweet and musical, and his manners those of a perfect gentleman. His physiognomy indicates a high order of intellect, with great resolution and force of character.

"As a conversationalist he has no superior. He is fascinating and possesses a power of personal magnetism that quickly draws to him the hearts of all with whom he comes closely in contact."

But I have digressed from my subject. I was talking about Rulloff as a philologist.

In his colossal researches he had demonstrated one fact, interesting, curious, but wholly unimportant, namely, that the word used in every language to express the negative commences with the letter N.

Albert S. Wheeler was at the time of the Binghamton murder the professor of Greek in Cornell University. He had taught me Greek. I asked Professor Wheeler what there was about this new theory and about Rulloff as a classical scholar. He said that no doubt Rulloff had acquired a vast amount of classical knowledge, but that he was a crank, and if he could

live many years and could possibly demonstrate the principles which he claimed to have discovered, the result would be of no possible benefit to anybody.

If this estimate of Professor Wheeler was right, and I have no doubt it was, then the title of this talk is wrong. My subject is, "Ruloff, the Great Criminal and Philologist." It is evident that the word "great" applies only to the word "criminal." He was a great criminal, but he was not a great philologist.

NOTE.—The following letter from ex-Sheriff Smith Robertson to his friend, D. K. Houtz, of Philadelphia, written a few weeks after he took Ruloff to Auburn, will be of interest to those who remember those stirring events:

"Ithaca, April 7th, 1859.

"My Dear Friend:—

"Your kind note of the 31st ult. came to hand this moment. I hasten to reply. It would require volumes to write all, but I'll endeavor to give you an outline.

"About the first of March a circular or handbill of a most inflammable character was widely circulated around about Ithaca, even to 50 miles distant, calling upon all the people to meet on the 12th of March to determine whether the *murderer should go unpunished!* It took like wildfire. The whole people were aroused as by one impulse. At first it was treated as a *wild and horrid joke*, but as the time approached our best citizens, and especially my immediate friends, became seriously alarmed for the consequences of the determination that was threatened, I was resolved to do everything in my power to preserve order, to prevent any violation of law and to preserve the good name of the *good people of Tompkins county*. Be assured, my friend, I felt in all its force the full responsibility of my position; that I should be responsible for every drop of blood or expense to county buildings, and for every blot or stain that in any possible way, by any and every personal sacrifice, *I could prevent*, and I was resolved to be up to and *above any possible emergency that might arise*.

"I only contemplated maintaining my position at the jail against any demonstration that might be made, feeling fully assured that,

with twenty-five or thirty good, reliable and muscular men quietly on the inside with the proper means for a vigorous defence, and then with our best and soundest old men on the outside as peacemakers to quiet any fury that might be manifested, we should be perfectly safe and the mischief-makers could be kept quiet. But as time approached and I began to feel around me for my help (as wonderful as it may seem to you), I felt myself alone; there were *so few* who could breast the horrible tornado that was sweeping our people all in one direction. All believed him guilty, and all wanted him hung, nor did they care how it might be done. Very few would make the least effort to allay the excitement, and fewer still would volunteer their influence and manly effort to meet the threatened storm. At your distance you can have no conception of the feeling here. When I found myself powerless for any defence that promised success, I felt I might do by stratagem what I had no hope to accomplish by force, *to-wit, a horrid crime!* Hence on the night of the 10th I made my plans to be off in the morning by the boat with the object of the people's vengeance to Auburn. None except actual performers were let behind the scene. I can't give it to you in a letter. Suffice to say, it succeeded to a charm; all passed off perfectly as planned. But, my friend, for one moment contemplate that night of the 10th with me.

"Imagine yourself about to take a step, such that the least accident might plunge yourself not only but your good name, to the bottomless pit, and you may have some appreciation of the anxiety of myself and my dear wife on that ever-to-be-remembered night. I knew I was right legally and in every aspect in which the subject might be viewed. But, to take a man against whom there was such a universal howl of vengeance, out in open daylight at 8:30 a. m., without disguise and run the chances of getting the boat, when I knew that the boat had been watched the two previous mornings by a party of as spirited devils as we have in town, and also, that the jail had been watched day and night for near a fortnight to prevent the very thing I had planned to do, was an undertaking such that, I freely confess, was not well calculated to quiet our nerves. But the point of annoyance was simply this, if we should by any untoward circumstance fail to catch the boat I felt we were gone up, for the effort would have been made at once to take him from us. I had a good and reliable man with me; our duty would have required us to have made every possible effort to return to the jail, and we should have made that effort in earnest, which would have enraged the mob as well against us as against him for whose blood they

seemed to thirst. (Here it is.) Then *my friends* would all have said with apparent good reason that I had committed a great and intolerable error to take a man out, surrounded as we were, to tempt the people to the mischief they contemplated. But, as in all emergencies, a failure is always a folly, a success is all right, *and such is this*. We went directly to Auburn and deposited him in jail there for safe keeping beyond the reach of violence, except in a legal manner. During my absence I saw the Governor, Attorney-General and many other of the first men of the State, who all, without exception, approved my course. Since I have returned I have been treated with marked deference and politeness.

"At first, when the news of my movement with the prisoner spread among the people, one universal howl of indignation and rage went up, as from a lot of hungry wolves who had been cheated of their prey after having tasted blood.

"But I had *business away* for a few days. In the meantime what few true friends I had remaining came up manfully to my vindication, and also some of them at once vindicated the movement as the only one that could have been prudently adopted; but enough; it's all right. I never asked to be popular. I know I'm right; I knew it before I took the step, and that was enough for me. If the good people finally approve, very well; if not, I can't help it. In the matter of duty, I like the approval of my own judgment and conscience above all else. But I must stop. This is the first mark I've put on paper in regard to the affair. Please hand me this some time when you're through with it. I've done nothing, neither shall I, in self-vindication, except with intimate friends.

"Truly yours,

SMITH.

"D. K. Houtz, Philadelphia."

PREFATORY NOTE.

It is an added and unexpected pleasure to the editor of this pamphlet to add for the second edition of the Hon. Samuel D. Halliday's paper on "Ruloff, the Great Criminal and Philologist," a letter from one of the most eminent legal authorities in the State of New York,—Francis Miles Finch, late Director and Dean of Cornell College of Law, and formerly Associate Judge of New York Court of Appeals. Judge Finch is world-famous as the author of the great irenic poem, "The Blue and the Gray," a perennial and unfading olive branch which has hastened by decades the reconciliation of the North and South after a bloody civil war. Indeed, it takes its place in literature with those great utterances which we associate with the names of Washington and Lincoln, in a common inheritance of patriotism.

To have this eminently clear statement of the Ruloff case conveyed in a form which, in both language and penmanship, is surprising in a man of well nigh four-score years, makes Judge Finch's contribution not merely a delight to his neighbors, who hope to see among them his venerable form for many years to come, but is a real addition to history. Not only members of the legal fraternity, but ordinary laymen who are lovers of justice, will rejoice that the result for all time, of the arguments and pleas growing out of the Ruloff case, has, in Judge Finch's own words, been "put beyond any question by the explicit terms of the Penal Code." In the development of law and its glorious history, good men everywhere must have a vital interest; and it is surely the work of a Historical Society to help in making plain the story.

Mr. Halliday's pamphlet attracted notable attention from the metropolitan and other journals in New York State, and the first edition was quickly exhausted. The second edition is herewith sent forth to gratify the desires of a wider circle of readers.

W. E. G.

February 28, 1906.

Dear Mr. Halliday:

I have read your historical sketch of the case of Rulloff, and of his life and crimes with great interest. Your investigation has been accurate and exhaustive, and goes even beyond my memory of the man. I regard the view you have expressed of the point really made and decided on his appeal to the court of last resort as substantially correct, and the reporter's note of the decision as going somewhat beyond a proper interpretation of it. For I did *not* contend that death, as an element of the *corpus delicti*, should *always* be proved by *direct* evidence. I avoided all discussion resting upon the difference between direct and indirect proof, and argued that, whatever its character might be in that respect, it must at least be *certain* and *unequivocal* and such that, conceding its truth, the supposition of remaining life would not be a *rational possibility*. I then insisted that this certainty of proof was required by Lord Hale's rule, and that the death was never sufficiently established when the sole proof of it was the *unexplained disappearance* of the person supposed to be murdered. I thus refused to stand upon the theory of direct evidence as inevitably required for two reasons: one, that the text-books more or less disavowed such a rule, and the other, that I could imagine a case in which the death might be made absolutely certain, although the evidence might be wholly or partly indirect. And I adhered to my position so rigidly and closely that my adversary, who was annoyed by it, claimed that I had raised a new question, not covered by any exception in the case.

The decision rendered by the Court determined two things: First, that the rule of Lord Hale was the true rule of law and had never been judicially departed from; and, second, that "the rule is *not* founded in a denial of the force of circumstantial evidence, but in the danger of allowing any but *unequivocal* and *certain* proof that some one is dead to be the ground on which, by the interpretation of circumstances of suspicion, an accused person is to be convicted of murder." These two propositions followed closely the line of the argument and settled the case. It was not needed to further narrow the rule by confining it to *direct* evidence, and the Court nowhere said that in so many words; but because the Judge quoted the question raised in the trial court, which *was* a demand for direct proof, and because along the line of discussion he occasionally used the words "direct," "direct and positive," "direct and certain," the case was reported as requiring direct proof. That always seemed to me somewhat too strong, and yet it has been followed in numerous cases, and finally has been put beyond any question by the explicit terms of the Penal Code. The distinction I drew, with much of study and care, has thus ceased to have any importance except that of an historical character; but it at least serves to illustrate one of the ways by which, through judicial interpretation, the law develops.

Yours very truly,

F. M. FINCH.



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